IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4881 OF 2005

Eknath Narayan Bhoir .. Petitioner

Vs.

Shri Shalik Laxman Patil & Ors. .. Respondents

Mr.A.A.Garge for the petitioner

Mr.A.S.Gadkari for the respondent no.1

CORAM : J.N.PATEL J.

DATED : 26TH JULY, 2006

P.C.:

1. Heard.

2. The petitioner is aggrieved by the order dt.31.7.2004 passed by the Additional Commissioner, Konkan Division, Mumbai preferred by the respondents challenging the finding of the revenue authorities as regards the mutation entry no.520 which was made on 17.11.83 and certified on 6.12.83 by which the name of the petitioner came to be recorded in the record of right of the suit property to the extent of 31 gunthas and the area

has been deleted from the holding of Laxman Rama Bhoir i.e. father of the respondent (original applicant).

3. The learned counsel for the petitioner has tried to impress upon this court that the Additional Commissioner has exceeded his Jurisdiction while exercising power of revision and has unsettled mutation entry of the year 1983 which was challenged by preferring an appeal after a lapse of 18 years. Further the impugned order suffers from inherent defect of unsettling concurrent finding of fact arrived by the revenue authorities i.e. by Sub Divisional Officer and Deputy Collector (Appeals) Thane and therefore, the impugned order deserves to be quashed and set aside on these two counts.

4. Firstly, that the respondents slept over his rights for 18 years and did not challenge the mutation entry and secondly the Additional Commissioner while exercising power of revision had no authority to interfere with the concurrent finding of facts arrived at by the revenue

authorities.

5. This court has examined the impugned order and find that the order does not suffer for want of Jurisdiction and on the other hand the impugned order set right the illegality and impropriety on the part of the revenue authorities in arriving at the erroneous finding of facts and law on the basis of records which were tampered to initiate mutation entry no.520 by its beneficiary in collusion with the revenue authorities.

6. This court has been informed that the petitioner has now approached the Civil Court for seeking a declaration for possession of the property in question and his application for interlocutory order has been rejected by the Trial Court as well as the appellate court. This court finds that in so far as the impugned order cancelling the mutation entry no.520 is concerned, the Additional Commissioner has arrived at a conclusion after examining the records which he found to be tampered. The revisional authority further found that the petitioner could not place

on record any document or material to even prima facie show ownership of Laxman Rama Bhoir through whom he is claiming to have inherited the property on the basis of which mutation entry no.520 was made in his favour.

7. It is a settled law that mutation entry has only presumptive value and it does not confer any title and for want of title the mutation entry is meaningless and therefore the revisional authority was justified in setting aside the orders passed by the revenue authorities in favour of the petitioner. Petition has no merits. The contention raised by the petitioner deserves to be rejected as a result of which the petition is dismissed with costs. The conclusion arrived at by the Additional Commissioner in the impugned order would not in any manner be binding on the Civil court which is supposed to decide the issue of title independent of the proceedings and findings relating to mutation entry.

(SHRI J.N. PATEL, J)